

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D.C. 20548

FILE: B-182803

DATE: OCT 24 1975

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MATTER OF:

Temporary duty per diem and travel allowances -
Patrick R. Manders, SP4, U.S. Army

DIGEST:

Member who has furnished copies of travel orders issued several months after claimed temporary duty at Vilseck, Germany, has the burden of providing clear evidence that he actually performed temporary duty before his claim for reimbursement for travel and per diem allowances may be paid. In the absence of such evidence no reimbursement may be authorized.

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This action is in response to an undated letter received October 16, 1974, from Mr. Patrick R. Manders requesting, in effect, a review of a settlement by the Transportation and Claims Division, General Accounting Office, dated September 19, 1974, which disallowed his claim for per diem and travel allowances during a period of claimed temporary duty at Vilseck, Germany, from May 1-7, 1972, while he was on active duty in the United States Army.

The record shows that Letter Order Number 11-170, dated November 29, 1972, issued by Headquarters 1st Armored Division, APO 09326, confirming verbal orders issued May 1, 1972, by the Commanding Officer, directed 14 members including Specialist Fourth Class Patrick R. Manders to proceed on temporary duty to USAREUR Combined Arms Training Center, Vilseck, Germany. Travel was to commence on or about May 8, 1972 from Bamberg, Germany. Government transportation was directed.

Mr. Manders' voucher indicated that he performed the temporary duty during the period from May 1-7, 1972, pursuant to verbal orders of his commanding officer. Also, he had indicated that the mode of travel was by privately owned vehicle with departure from Bamberg, Germany, at 0700 hours on May 1.

The Transportation and Claims Division denied the claim for per diem and travel allowances on the basis that Mr. Manders had failed to meet the burden of providing documentary and clear evidence as to the performance of temporary duty during the period from May 1-7, 1972.

Subsequent to receipt of Mr. Manders' letter here, a search of the Morning Report of Company A, 3rd Battalion, 35th Armor, 1st Armored Division, was conducted to ascertain whether there was any record of his being on temporary duty assignment for any time from May 1 to June 18, 1972. The search, conducted on December 23, 1974, provided no indication of any temporary duty during this period. The only entries on the Morning Report during that time concern periods of leave. This finding is in concert with a statement dated May 23, 1973, from Headquarters 1st Armored Division stating that Mr. Manders was "never TDY during the period 1-7 May 1972." In that connection Mr. Manders has indicated that he is not sure of the dates on which travel was performed but he insists that temporary duty travel was performed at about the time in question.

The statutory authority for the payment of travel and transportation allowances to members of the uniformed services generally is contained in 37 U.S.C. 404 (1970), which provides that under regulations prescribed by the Secretary concerned, a member of a uniformed service is entitled to such allowances for travel performed or to be performed under orders. The regulations authorized to be prescribed are contained in Volume 1 of the Joint Travel Regulations.

Paragraph M3000 of the regulations effective for the dates in question provide that no reimbursement for travel is authorized unless orders by competent authority have been issued therefor. Paragraph M3001 defines a competent order as a written instrument issued or approved by the Secretary of the department concerned, or such person or persons to whom authority has been delegated or redelegated to issue travel orders, directing a member or a group of members to travel between designated points. Paragraph M3002-2 provides that a verbal order given in advance of travel and subsequently in writing giving the date of the verbal order and approved by competent authority will meet the requirement for written orders.

The right of military personnel to reimbursement of travel expenses and the extent of such reimbursement is dependent upon the performance of official travel and temporary duty directed by competent orders. B-175211, March 31, 1972. In this case the orders furnished were not issued until almost 7 months after the travel was supposed to have been performed and the member's claim was not submitted until some months after that. His claim does not coincide with the orders involved and a check of the Morning Reports of the appropriate unit indicates that no temporary duty was performed by the member at or about the time in question. In these circumstances and in the absence of clear evidence that temporary duty for which

B-182803

payment of per diem and travel allowances is requested was actually performed, there is no legal basis for permitting reimbursement. Accordingly, the settlement of September 19, 1974, is sustained.

R.F. KELLER

[Deputy] Comptroller General
of the United States